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SEP 6 - 1996

FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Guidelines for Evaluating the Environmental  
Effects of Radiofrequency Radiation

ET Docket No. 93-62

To: The Commission

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**PETITION FOR RECONSIDERATION AND CLARIFICATION**

BellSouth Corporation ("BellSouth"), by its attorneys, hereby petitions for reconsideration of *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, ET Docket No. 93-62, *Report and Order*, FCC 96-326 (Aug. 1, 1996), *summarized* 61 Fed. Reg. 41006 (Aug. 7, 1996), and clarification thereof. Although BellSouth applauds the Commission's efforts to update its guidelines for evaluating the effects of radiofrequency ("RF") radiation, BellSouth believes that the Commission should reconsider Section 1.1307(b)(3) which states that licensees at a shared location with an aggregate ERP in excess of the limits specified in Table 1 of the rule must ensure that their transmitters do not exceed field strength and power density limits by more than one percent. Further, the Commission should revise this rule to state that the site owner (rather than the licensees jointly) is responsible for ensuring that a facility is in compliance with the Commission's rules. The Commission also should clarify the procedures for bringing a shared facility into compliance if the aggregate field strength/power density level at the facility exceeds the prescribed limits. Finally, parties should be given six months after adoption and release of revised OST Bulletin 65 to comply with the revised RF guidelines and the bulletin.

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**I. SECTION 1.1307(b)(3) SHOULD BE REVISED TO ENSURE THAT A TRANSMITTER AT A SHARED FACILITY DOES NOT EXCEED THE POWER DENSITY AND FIELD STRENGTH LIMITS BY MORE THAN TEN PERCENT**

*The Report and Order* amends Section 1.1307(b)(3) to state:

when the guidelines specified in § 1.1310 are exceeded in an accessible area due to the emissions from multiple fixed transmitters, actions necessary to bring the area into compliance with the guidelines are the responsibility of all licensees whose transmitters produce field strengths or power density levels at the area in question in excess of 1% of the exposure limits applicable to their particular transmitter.

Thus, when the aggregate ERP at a shared facility exceeds the power limits specified in 1.1307, Table 1, the licensees whose transmitters exceed the power density and field strength limits specified in 1.1310 by more than one percent must reduce the power density/field strength or otherwise bring their transmitters into compliance by some means specified in OST Bulletin 65. Although laudable, the requirement is impracticable because BellSouth is unaware of any equipment currently capable of measuring power density levels with the repeatability and precision required by the rules — *i.e.*, having both a margin of error less than one percent and a precision better than three significant figures.

Even if such equipment were available, however, a one percent standard would be unworkable because human error or environmental conditions could easily account for a one percent increase in power density on any given day. For example, measurements taken on a dry, breezy day may differ from those taken on a humid, calm day. Similarly, even a slight change in the measurement location may result in a very different power density measurement, due to the effects of reflection (multipath) and antenna directivity. Thus, if the rule is retained in its current form, one technician could measure the field density at a location and determine that its transmitter did not

exceed the exposure limits; another technician could subsequently take a measurement at the same apparent location and determine that the same transmitter exceeds the exposure limit by more than one percent.

Moreover, requiring correction within one percent of the guidelines is not practical because this would require adjustment of transmitter power to an accuracy of four hundredths of a decibel.<sup>1</sup> To avoid such problems, the Commission should only require licensees to ensure that their transmitters do not exceed the power density or field strength limits by more than ten percent. Such a requirement will minimize disputes and eliminate the need for filings when the change in power density at a facility is the result of equipment sensitivity or environmental conditions rather than an actual change in power density.

## **II. THE FCC SHOULD MAKE SITE OWNERS RESPONSIBLE FOR ENSURING THAT THEIR SITES COMPLY WITH THE EXPOSURE LIMITS**

During this proceeding, the Commission was urged to place the burden for verifying compliance with exposure guidelines on the site owner. *See Report and Order* at ¶ 101. Instead of requiring each individual licensee to acquire and update transmit power data from other licensees, including potential competitors, this proposal made the site owner responsible and minimized the costs associated with multiple parties taking measurements to ensure compliance. By making the site owner responsible, compliance costs could be passed along to licensees through the lease agreement.

Rather than make the site owner responsible, however, the rules adopted in this proceeding make all licensees at a site jointly responsible for ensuring that the site does not exceed the exposure limits. *See* Section 1.1307(b)(3). No explanation was given as to why the proposal to make the site

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<sup>1</sup> A one percent difference in power represents .043 dB ( $10 \log 1.01$ ).

owner responsible was rejected. BellSouth urges the Commission to reconsider this decision. By making multiple licensees responsible for ensuring compliance, the Commission is forcing competitors to share information regarding their system design. Further, the costs associated with compliance efforts are increased because multiple parties will be established procedures to ensure that the site does not exceed the exposure limits. This is consistent with the approach taken by the Commission with regard to antenna structure marking and lighting.<sup>2</sup>

Additionally, making multiple parties responsible may discourage site sharing. Specifically, licensees may attempt to get exclusive leases for sites to ensure that they do not have to coordinate with other licensees regarding power levels and total ERP at the site. Given the current problems with zoning and issues surrounding the proliferation of sites/towers, the Commission should not adopt rules that may discourage site sharing. Accordingly, the Commission should only require licensees to coordinate with a single entity — the site owner.

At a minimum, the Commission should clarify the responsibilities of licenses at shared sites and the mechanics for filing environmental assessments relating to these sites. It is BellSouth's understanding that where the aggregate ERP of transmitters at a shared rooftop facility exceed the limits specified in Table 1 of the rule, only licensees whose transmitters exceed the limits of 1.1310 must take steps to bring the facility into compliance. It is unclear, however, whether an existing licensee must modify a transmitter that was previously in compliance if a new licensee places a transmitter into service at the location that causes both transmitters to exceed the exposure limits. BellSouth requests that the Commission clarify this process.

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<sup>2</sup> See *Streamlining the Commission's Antenna Structure Clearance Procedure and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures*, WT Docket No. 95-5, *Report and Order*, 11 F.C.C.R. 4272 (1995).

**III. THE COMMISSION SHOULD CLARIFY THAT, BECAUSE REVISED OST BULLETIN 65 IS NOT YET AVAILABLE, PARTIES MAY RELY ON THE CURRENT VERSION OF THE BULLETIN FOR SIX MONTHS AFTER ADOPTION AND RELEASE OF THE REVISED BULLETIN**

In adopting the new RF exposure guidelines, the Commission recognized that licensees would experience difficulties complying with the new rules because of the August 6, 1996 effective date mandated by the Telecom Act and the fact that revised OST Bulletin 65 has not been finalized and released. *See Report and Order* at ¶¶ 112, 114, 170. Accordingly, the Commission established a transition period between the effective date of the rules and January 1, 1997 in which the previous RF exposure guidelines would continue to apply. Additionally, the Commission delegated to the Bureaus the authority to waive the rules if individual licensees show good cause that they need additional time to comply with the new rules. *Id.* at ¶ 112.

To minimize the number of waivers and alleviate the burden on licensees, BellSouth requests that the Commission extend the transition period until six months after revised OST Bulletin 65 is released to the public. By revising the transition period in this manner, the Commission will provide licensees with the opportunity to evaluate the new bulletin and to train personnel on the new requirements. It is BellSouth's understanding that a draft version of revised OST Bulletin 65 is slated to be released for comment in November 1996. It is unlikely, however, that the revised Bulletin will be finalized prior to the expiration of the transition period. Thus, licensees only will have two months to establish procedures and familiarize themselves with the new procedures outlined in the draft, and will have to revise the procedures if the final version of the Bulletin differs from the draft. At a minimum, should the Commission choose not to extend the transition period to comport with the issuance of revised OST Bulletin 65, it should permit licensees to continue their

current practices for ensuring compliance (based on the current version of the OST Bulletin) until six months after the revised version of the OST Bulletin is adopted and released.

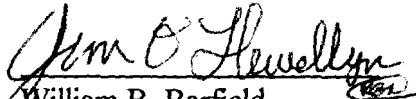
### **CONCLUSION**

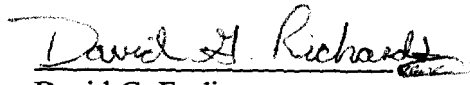
For the forgoing reasons, BellSouth urges the Commission to reconsider the adoption of rules which would require licensees to ensure that transmitters at shared facilities do not exceed the power density or field strength limits by more than one percent. Further, the Commission should make site owners, rather than licensees, responsible for ensuring compliance. The Commission also should clarify who is responsible for making a filing when every transmitter at a shared facility complies with the exposure guidelines on an individual basis, but exceed the guidelines when analyzed jointly. Finally, the Commission should clarify that licensees can use the current version of OST Bulletin 65 for six months after the new version is adopted and released.

Respectfully submitted,

**BELLSOUTH CORPORATION**

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September 6, 1996